

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
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UNITED STATES OF AMERICA

-v.-

SANDEEP AGGARWAL,

Defendant.

NOLLE PROSEQUI

13 Cr. 884 (CM)

1. The filing of this *nolle prosequi* will dispose of this case against SANDEEP AGGARWAL, the defendant.

2. On or about November 8, 2013, SANDEEP AGGARWAL, the defendant, waived indictment and Information 13 Cr. 884 (CM) (the "Information") was filed, which charged AGGARWAL with conspiring to commit securities fraud, in violation of Title 18, United States Code, Section 371 (Count One) and committing securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, Title 17, Code of Federal Regulations, Section 240.10b-5 and Section 240.10b5-2, and Title 18, United States Code, Section 2 (Count Two). The charges in the Information related to material, non-public information ("MNPI") about a planned corporate partnership between Yahoo, Inc. ("Yahoo") and Microsoft Corporation ("Microsoft").

3. On or about November 8, 2013, SANDEEP AGGARWAL, the defendant, pleaded guilty to Counts One and Two of the Information pursuant to a cooperation plea agreement with the

Government. The defendant has not been sentenced.

4. On or about July 30, 2013, the U.S. Securities and Exchange Commission (the "SEC") filed an amended complaint against SANDEEP AGGARWAL, the defendant, related to MNPI about the Yahoo-Microsoft partnership. *SEC v. Aggarwal*, No. 13 Cv. 5185 (RMB) (S.D.N.Y.). On December 6, 2013, the Court in that matter entered a judgment against AGGARWAL, on consent, enjoining him from future violations of the securities laws. The judgment further ordered AGGARWAL to pay a civil penalty upon motion by the SEC. Additionally, on or about January 8, 2014, the SEC barred AGGARWAL from associating with any broker, dealer, investment adviser, municipal securities dealer, municipal adviser, transfer agent, or nationally recognized statistical ratings agency, and from participating in any offering of penny stock. On or about February 13, 2020, the SEC, with the consent of AGGARWAL, requested that the Court in the civil matter enter a final judgment against AGGARWAL, enjoining him from future violations of the securities laws and ordering him to pay a civil penalty of \$32,428.95.

5. Based on all of the circumstances, including (1) legal developments subsequent to the defendant's guilty plea, namely, *United States v. Newman*, 773 F.3d 438, 450-51 (2d Cir. 2014), *abrogated in part by Salman v. United States*, 137 S. Ct.

420 (2016); (2) the amount of time that has passed since the conduct at issue and the resulting difficulty in securing evidence related to elements of the charged offenses; and (3) the SEC's judgment and bar against SANDEEP AGGARWAL, the defendant, the Government has determined that further prosecution of AGGARWAL would not be in the interests of justice.


6. Accordingly, the Government recommends that an order of *nolle prosequi* be filed as to SANDEEP AGGARWAL, the defendant, in the above-captioned matter.

/s

Drew Skinner
Daniel Tracer
Assistant United States Attorneys
Tel.: (212) 637-1587/-2329

Dated: New York, New York
February 13, 2020


Upon the foregoing recommendation, I hereby direct, with leave of the Court, that an order of *nolle prosequi* be filed as to SANDEEP AGGARWAL, the defendant, with respect to Information 13 Cr. 884 (CM).



GEOFFREY S. BERMAN
United States Attorney
Southern District of New York

Dated: New York, New York
February 13, 2020

SO ORDERED:



HONORABLE COLLEEN MCMAHON
Chief United States District Judge
Southern District of New York

Dated: New York, New York
February 13, 2020